IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

OP.No. 27062 of 2002(V)

PETITIONER:

KUTTIYAMMA THOMAS ALIAS CATHRINA MATHAI,
W/O. LATE THOMAS, AGED 66 YEARS,
VATTAPPALLIL HOUSE, KADAMAKUZHI, VALLAKADAVU,
IDUKKI.

BY ADV. SRI.V.GIRI

RESPONDENTS:
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1. KATTAPPANA GRAMA PANCHAYAT,
KATTAPPANA, REPRESENTED BY ITS
THE SECRETARY, KATTAPPANA.

2. THE SECRETARY, KATTAPPANA GRAMA
PANCHAYAT, KATTAPPANA.

BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.S.K.MOHAMED SAJEER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE TAX RECEIPT EVIDENCING PAYMENT OF BUILDING TAX FOR THE YEAR 1999-2000.

P2: TRUE COPY OF RECEIPT EVIDENCING PAYMENT OF BUILDING TAX FOR THE YEAR 2002-2003.

P3: TRUE COPY OF REPLY DT.11.9.2002 SUBMITTED BY PETITIONER.

P4: TRUE COPY OF PETITION FILED BY PETITIONER BEFORE R1 DT.11.9.2002.

P5: TRUE COPY OF ORDER DT.17.9.2002.

RESPONDENT'S EXHIBITS:

R1(a): TRUE COPY OF PROVISIONAL ORDER DT.10.9.2002 ISSUED BY PANCHAYAT TO THE PETITIONER.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 27062 OF 2002

Dated this the 19th day of March, 2007

JUDGMENT

Heard counsel for the petitioner and counsel appearing for the Kattappana Grama Panchayat. Petitioner is challenging Ext.P5 order whereunder the Secretary of the Panchayat has ordered demolition of the building reconstructed by the petitioner in violation of Building Rules. Petitioner has produced photographs of the building which show that roof and the foundation of the old building remain the same. However, wall of one room appears to be reconstructed by the petitioner with cement tiles. Even though reconstruction or repair should conform to the Building Rules, I do not think there is any scope for interference by Panchayat in this case because much of the building is retained in the original form and all what is done is reconstruction of wall of one room that too without increasing the plinth area or affecting the old roof which is made of wood and tiles. In the circumstances, O.P. is disposed of quashing Ext.P5. However, if the Panchayat wants to widen the road, it is for the Panchayat or the PWD to acquire any

portion of the petitioner's building and proceed for widening of the road after payment of compensation.

(C.N.RAMACHANDRAN NAIR)
Judge